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April 28, 2023

VIA CM/ECF

Honorable John M. Vazquez
United States District Judge, District of New Jersey
Frank R. Lautenberg U.S. Post Office & Courthouse
2 Federal Square
Newark, New Jersey 07102

Re: *United States ex rel. Simpson v. Bayer Corp., et al.*,
Civ. No. 05-3895 (D.N.J.) (JMV) (LDW): Extension Request

Dear Judge Vazquez:

This firm, along with Sidley Austin LLP, represents Bayer Corporation, Bayer Healthcare Pharmaceuticals Inc., and Bayer Healthcare LLC (“Bayer”) in the above-referenced matter. We write in lieu of a more formal application, to respectfully request a brief 21-day extension, until May 30, 2023, to respond to the pending fee petitions filed by Relator’s current and prior counsel. ECF Nos. 409-415, 420. The expert retained by Bayer to review and analyze the fee petitions filed in this matter has required time away from his work on the expert report he is preparing in this matter in light of significant health issues experienced by an immediate family member, one of his children. This has delayed the completion of his expert report regarding the reasonableness of the attorneys’ fees sought by Relator’s attorneys in this matter. Relator’s counsel do not object to this extension. Indeed, for the same reasons, and like here with the consent of Relator’s counsel, the U.S. District Court for the District of Minnesota granted Bayer’s request for such an extension to May 30, 2023, for Bayer’s response to Relator’s attorneys’ fee petitions in the Baycol litigation pending in that court. *U.S. ex rel. Simpson v. Bayer*, No. 08-cv-5758, ECF No. 318 (Apr. 27, 2023) (D. Minn.).

Relator’s counsel filed their fee petitions in January 2023, 18 months after this matter was resolved in principle. On January 23, 2023, Your Honor granted Bayer’s unopposed request to file its response to the fee petitions by April 6, 2023. ECF No. 422. After Your Honor granted that extension, the parties engaged in mediation before the Honorable Dennis M. Cavanaugh, as directed by the Court. ECF No. 423. The parties successfully reached resolution in one fee application and have continued productive discussions with the hope of settling the others. Those settlement discussions have, of course, turned on an analysis of the fee applications, which collectively total thousands of pages and request over \$48,000,000 in fees, expenses, and costs. To that end, Bayer promptly retained an expert who was actively reviewing and analyzing the fee petitions for reasonableness; his analyses, as they have become available, have been critical in informing Bayer’s settlement offers in the mediation process. In light of the substantial amount of material to review and the length of time involved in this case, the expert’s review has been a time-intensive process. Bayer accordingly requested a modest one-month extension. On March 13, 2023, Your Honor granted an extension through May 8, 2023, for

GIBBONS P.C.

Honorable John M. Vazquez, U.S.D.J.
April 28, 2023
Page 2

Bayer to file its response. ECF No. 427. In the intervening time, constructive settlement discussions have also continued, including mediation sessions involving Bayer and Kessler Topaz in March and April.

Bayer's request for an extension to May 30, 2023 is modest and proportionate to the amount of time Relator's counsel had to prepare their submissions (18 months), and good cause exists to grant Bayer's request. While Bayer's expert has diligently reviewed the fee applications and their vast amount of accompanying material, significant health issues experienced by an immediate family member have delayed the expert's preparation of his report because he has had to take time away from his work to tend to these issues.

Bayer's response is currently due on May 8, 2023. An additional 21 day extension to prepare its opposition, and for Bayer's expert to finish preparing his report, will not delay the prompt resolution of this fee petition. Meanwhile, as it has done throughout, Bayer will continue to engage in the settlement process, whether through mediation or otherwise.

Bayer, therefore, respectfully requests that the Court grant the extension of time described above. If Your Honor has any questions or concerns, please do not hesitate to contact me. Otherwise, for the convenience of the Court, we have provided a space below for Your Honor to "So Order" the relief requested.

Thank you very much for your kind consideration of this matter.

Respectfully submitted,

s/ Lawrence S. Lustberg
Lawrence S. Lustberg

SO ORDERED,

Dated: May 1, 2023



Hon. John M. Vazquez, U.S.D.J.

cc: All Counsel of Record (via ECF)